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3 UNITED STATES DISTRICT COURT
4 EASTERN DISTRICT

5 ----- X
6 PRESIDENT R.C.- ST. REGIS MANAGEMENT
7 COMPANY,

8 Plaintiff,
9 -against-

10
11 ST. REGIS MOHAWK TRIBE,

12 Defendants.

13 ----- X
14 EAB Building
15 Uniondale, New York

16 April 10, 2002
17 1:50 p.m.

18 EXAMINATION BEFORE TRIAL of ROGER S. DILLER
19 a Non-Party Witness taken pursuant to Subpoena and held
20 at the above-mentioned time and place, before Judy Grob
21 a Notary Public of the State of New York.
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24
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A P P E A R A N C E S:

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Diller

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Q You understand that there is a lawsuit between a company President R.C. St. Regis Management Company as the plaintiff that was brought against my client which is the defendant St. Regis Mohawk Tribe?

A Yes.

Q That is the proceeding. You are here as a third party witness and you are here as a non party witness as it is called on Long Island. You understand?

A Yes.

Q Did you review any documents in preparation for today's deposition?

A No.

Q Did you do anything else other than the meetings as you described to prepare for the deposition?

A I just spoke with my boss and that was it.

Q And your boss is?

A Gary Melius.

Q When did you speak with Mr. Melius?

MR. PREMISLER: Can I identify what he spoke to him about?

1 Diller 17

2 trying to understand the history. Why don't we take
3 it back to December 1st 1998 when you closed up your
4 business and went to work for Mr. Melius.

5 Who was your first employer?

6 A Anderson Black construction.

7 Q How long did you work for Anderson
8 Black?

9 A Whenever the casino was finished. I
10 think then Anderson Black was changed to Archon
11 Design.

12 MR. PREMISLER: You mean your
13 employer changed?

14 THE WITNESS: Right.

15 Q You worked for Anderson Black
16 Construction Corp. from approximately December 1st
17 1998 until the casino was completed?

18 A Yes.

19 Q If I understood your testimony
20 Mr. Diller you worked for Anderson Black
21 Construction Corp. from December 1, 1998 to when the
22 Akwesasne Casino in Hogansburg was completed, is
23 that correct?

24 A Correct. I --

25 MR. PREMISLER: Yes or no. Don't

1 Diller 19
2 employer changed from Anderson Black to Archon, if
3 you know?
4 MR. PREMISLER: Objection.
5 A I don't know. It just changed.
6 Q It was a name change?
7 A Yes.
8 MR. PREMISLER: You are putting
9 words in his mouth.
10 Ask your questions.
11 MR. SEFF: Can you read back the
12 last question and answer, please?
13 (The requested portion was read
14 back by the court reporter.)
15 Q Who owns Anderson Black?
16 MR. PREMISLER: If you know.
17 A I am assuming, so I don't know.
18 MR. PREMISLER: Don't guess.
19 A I don't know, because I don't.
20 Q Mr. Diller, do you recall speaking to
21 me on the phone on or about April 1st?
22 A Yes.
23 Q Do you recall telling me that Gary
24 Melius owned Anderson Black?
25 A Again yes.

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Diller

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Q Mr. Diller, I thought you just said in the last ten minutes that when you started working in December 1st of 1998 you went to work for a company called Anderson Black Construction; is that right?

A Yes. I apologize.

Q From December 1st 1998 until the point you considered the casino completed you worked for Anderson Black; is that correct?

A Yes.

Q At that point did you begin to work for Archon?

A It did not happen. I stopped working on the casino before it was open.

MR. PREMISLER: Just answer his questions.

A No.

Q During the entire time that you worked on the casino did you work for Anderson Black?

A Yes.

Q At some point after you stopped working on the casino, did you go to work or Archon Design?

A Yes.

Q Did you work for Archon Design?

1 Diller 26

2 A Yes.

3 Q Does your direct deposit slip say

4 Archon?

5 A Yes.

6 Q To your knowledge does Anderson Black

7 still exist?

8 A I don't know.

9 Q I think you testified that you may have

10 received one or two pay checks from Castle Ventures;

11 is that correct?

12 A Maybe it would be the first time I

13 started there. I am not sure I could be wrong about

14 that.

15 Q You never considered your employer

16 Castle Ventures?

17 A Right.

18 Q You considered it Anderson Black?

19 A Yes.

20 Q I believe you testified that you

21 believed, you had reason to believe that Gary Melius

22 owned Anderson Black?

23 A Yes.

24 Q Did he sign your pay checks?

25 A I had direct pay checks.

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Diller

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Q So you didn't get a signature?

3

A Yes.

4

Q What gives you the reason to believe

5

that he had owned Anderson Black?

6

A He is the boss.

7

Q I believe you testified that you had

8

reason to believe that he had owned Archon?

9

A Yes.

10

Q Same reason he is the boss?

11

A Yes.

12

Q If you know what is the connection

13

between Castle Ventures, Anderson Black and Archon

14

Design, if any?

15

A That I don't know.

16

Q If you know if there is a connection

17

what is it between Castle Ventures and Archon?

18

A That I don't know.

19

Q You don't know if one owns the other?

20

A Right.

21

Q Who is if you know Warren Shiffman?

22

A Yes.

23

Q Who is Mr. Shiffman?

24

A He is the architect that hired me.

25

Q Did he hire you to replace himself?

1 Diller 47
2 the transcript where the documents came
3 from.

4 Q Mr. Diller, what, if anything, did you
5 do to ensure your that the certificate that you were
6 signing on or about 9/1/00 was accurate, if you
7 recall?

8 A I don't think I did much of anything to
9 know if it was accurate.

10 Q Can you help me understand, if
11 possible, if you know why it is that you signed
12 deposition exhibit 4 but apparently did not sign
13 either deposition exhibits 2 or 3?

14 MR. PREMISLER: Object to the
15 form.

16 Can you rephrase that?

17 I don't know what you mean. If I
18 don't there is a danger that the
19 witness doesn't. It's important that
20 we be clear.

21 Q I am trying to understand did somebody
22 ask you to sign deposition exhibit 4?

23 A Yes.

24 Q Who was that?

25 A Bill Thornton.

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Diller

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Q Do you recall when that was that
Mr. Thornton asked you to sign what is exhibit 4?

A Going by the date --

MR. PREMISLER: Not going by the
date.

Do you have any recollection?

A No.

Q Do you recall signing it shortly or
immediately after being asked to sign it?

A No, I don't remember the time frame.

Q Did Mr. Thornton say anything to you at
the time that he asked you to sign it?

A Just asked me to sign it.

Q Did you say anything in response to Mr.
Thornton?

A I don't remember exactly what I said.

Q Do you recall generally what you said?

A It may have been what is this and he
explained it to me and that was it.

Q Do you recall his explanation?

A No, I can read what it is.

Q What led up to your signature on
Exhibit 4 Mr. Thornton came up to you and asked you
to sign it?

1 Diller 49

2 A Yes.

3 Q He asked you what it was?

4 A Generally.

5 Q He gave you an explanation that you

6 don't recall?

7 A Yes.

8 Q Did you immediately sign it at that

9 point?

10 A I don't know how immediate but I signed

11 it.

12 Q Was it within that day that you signed

13 it?

14 A I don't know.

15 MR. SEFF: Mark this number 5.

16 (Memo was marked as Defendant's

17 Exhibit 5 for identification, as of

18 this date.)

19 Q Mr. Diller, I am going to show you a

20 one page document marked as Defendant's Exhibit

21 number 5, and it appears to be a May 16, 2000 letter

22 from Richard Bellando to whom it may concern

23 addressed to President R.C. St. Regis Management

24 Company. Take a moment and look at it and let me

25 know if you have seen that document?